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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,711	12/11/2003	Matthew Spiro	29812-CON	8628
909	7590	04/20/2006	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102			ALIMENTI, SUSAN C	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,711

Applicant(s)

SPIRO ET AL.

Examiner

Susan C. Alimenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 33-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35-37 is/are allowed.
- 6) ☒ Claim(s) 1-5, 6-8, 33, 34, and 39-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The indicated allowability of claim 34 is withdrawn in view of the newly discovered reference to Wigton '166. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 6-8, 33, 34, and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wigton et al. (USPN 5,813,166), and further in view of Wigton et al. (USPN 6,145,243)

Wigton et al. '166 (Wigton '166) discloses an insect trap assembly comprising a substantially generally extending gas exhaust tube 52, 39, having an outlet 56 for releasing the gas to the atmosphere. Wigton '166 further comprises an insect trap assembly, supported by the exhaust 52,39, having a housing 18, an annular intake wall defined as the top edge of housing 18, and insect trap or catch cup 14, and a vacuum system (fan 12) for drawing an inflow 34 of air from the atmosphere into the inlet of housing 18. This insect trap assembly is offset from and entirely exteriorly of the exhaust tube 52, 39, and the inlet of housing 19 is offset from and entirely exteriorly of the outlet 56 of the exhaust.

Wigton '166 does not positively disclose burning propane to create a CO² gas, but instead employs a tank having a supply of pre-supplied CO². It is well-known that propane tanks are

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more accessible to the average customer, as it is commonly used for grills, and in many cases is less expensive than a tank of carbon dioxide. Wigton '243 discloses a similar insect trapping system that utilizes a propane burner to produce the CO² needed to attract the insects.

Furthermore, this burning process produces a CO² gas that also comprises moisture and heat resulting from the burning process. Wigton '243, col.3, ll.45-52, & col.4, ll.37-41. It would have been obvious to one having ordinary skill in the art to use a propane burner to supply CO² to the Wigton '166 system since propane is more readily available than a tank of CO², and also the burning process will produce other substances that will assist in attracting the insects.

Regarding claim 8, Wigton '166 as modified with the step of burning propane gas is considered to have a heating panel defined as 39, which would be heated by the CO² that is pumped into the system.

Allowable Subject Matter

4. Claims 35-38 are allowed.

Response to Arguments

5. Applicant's arguments with respect to claims 1-5, 6-8, 33, and 34 have been considered but are moot in view of the new grounds of rejection.

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Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897.

The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan C. Alimenti


TERI PHAM LUU
SUPERVISORY
PRIMARY EXAMINER